

### **SUBCHAPTER 3. STANDARDS FOR LICENSURE OR QUALIFICATION**

#### **19:43-3.1 Undue economic concentration**

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(a) In accordance with N.J.S.A. 5:12-82e, no casino license shall be issued to or held by a person if the Commission determines that such issuance or holding will result in undue economic concentration in Atlantic City casino operations by that person. Whether a person is considered the holder of a casino license is defined in N.J.S.A. 5:12-82e.

(b) For purposes of N.J.S.A. 5:12-82e and this section, "undue economic concentration" means that a person would have such actual or potential domination of the casino gaming market in Atlantic City as to substantially impede or suppress competition among casino licensees or adversely impact the economic stability of the casino industry in Atlantic City.

(c) In determining whether the issuance or holding of a casino license by a person will result in undue economic concentration, the Commission shall consider the following criteria:

1. The percentage share of the market presently controlled by the person in each of the following categories:

- i. The total number of licensed casinos in this State;
- ii. Total casino and casino simulcasting facility square footage;
- iii. Number of guest rooms;
- iv. Number of slot machines;
- v. Number of table games;
- vi. Net revenue;
- vii. Table game win;
- viii. Slot machine win;
- ix. Table game drop;

- x. Slot machine drop; and
  - xi. Number of persons employed by the casino hotel;
- 2. The estimated increase in the market shares in the categories in (c)1 above if the person is issued or permitted to hold the casino license;
- 3. The relative position of other persons who hold casino licenses, as evidenced by the market shares of each such person in the categories in (c)1 above;
- 4. The current and projected financial condition of the casino industry;
- 5. Current market conditions, including level of competition, consumer demand, market concentration, any consolidation trends in the industry and any other relevant characteristics of the market;
- 6. Whether the licensed casinos held or to be held by the person have separate organizational structures or other independent obligations;
- 7. The potential impact of licensure on the projected future growth and development of the casino industry and Atlantic City;
- 8. The barriers to entry into the casino industry, including the licensure requirements of the Act, and whether the issuance or holding of a casino license by the person will operate as a barrier to new companies and individuals desiring to enter the market;
- 9. Whether the issuance or holding of the license by the person will adversely impact on consumer interests, or whether such issuance or holding is likely to result in enhancing the quality and customer appeal of products and services offered by casino licensees in order to maintain or increase their respective market shares;
- 10. Whether a restriction on the issuance or holding of an additional license by the person is necessary in order to encourage and preserve competition and to prevent undue economic concentration in casino operations; and
- 11. Any other evidence deemed relevant by the Commission.

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